PARLINGTON, P. C.

Apr 11, 1941

Sirs:

By letter of March 3, 1941 (No. P18-2(2)/ 14-3(400916)), the Secretary of the Navy authorized certain changes in Contracts NOd-1430, NOd-1432, NOd-1433, NOd-1497, NOd-1500, NOd-1503 and Nod-1642.

On page two of the above referenced letter, in the change under Article 17(d) of the General Provisions, reference was inadvertently made to claims for reimbursement under paragraphs "(a) or (b)" of that Article when paragraphs "(b) or (c)" were intended.

It is requested that the change letter be corrected by substituting "(b) or (c)" for "(a) or (b)" under Article 17(d).

By direction of the Secretary of the Navy

Respectfully,

T. L. GATCH
Acting Judge Advocate General
of the Navy

Federal Shipbuilding and Dry Dock Company, Kearny, New Jersey.

CC: BuShips
BuS&A
CompBd (3)
SupShip., Kearny
G.A.O. (Audit Division)

p18-2(2)/Lm-3(410910) P

March 3, 1941

Sirs:

Articles 17(b), (c) and (d) of the General Provisions forming part of Contracts NOd-1430, NOd-1432, NOd 1433, NOd-1497, NOd-1500, NOd-1603 and NCd-1642, provide for reimbursement of the Contractor by the Navy Lepartment of the additional cost incurred in connection with overtime and shift work, where such overtime or shift work has been approved by the Navy Department

In order to extend these provisions to subcontracts, the Secretary of the Navy hereby authorizes the following changes in the General Provisions of each of the abovementioned contracts:

Article 17(b):

Dine 1 - after the word "contractor", insert the words "or any subcontractor under this contract".

Line 5 - after the word [footractor", insert the words for such subcontractor".

Line 7 - after the word "contractor", insert the words "or such subcontractor".

Article 17(c):

Line l - after the word "contractor", insert the words "or any subcontractor under this contract".

Line 4 - after the word "contractor", insert the words "or such subcontractor".

Line 6 - after the word "contractor", insert the words "or such subcontractor".

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For the sake of clarity, the Secretary of the Navy hereby further modifies the General Provisions forming part of Contracts NOd-1430, NOd-1432, NOd-1433, NOd-1490, NOd-1500 and

Article 23(a):

Line 9 after "vessel/vessels", insert "hereby

Article 12(c) of Contracts NGC-1430, NOd 1433, NOd-1497, NOd-1500, NOd-1503 and NGC-1042, authorizes the Contractor, with the written approval of the Secretary of the Navy or the tative, to enter into subcontracts on a cost-plus-a-fixed-fee basis, on a price adjustment basis, or on such other basis as may be approved. In order to permit the Contractor to modify existing addednaracts under this provision, the Secretary of the Navy hereby modifies each of these contracts as follows:

Article [12(c):

Line 5 Change the period following the word "approved" to a semicolon and add the following:

"similarly, if the contractor shall have obtained in advance such written approval, he may, by agreement with the subcontractor, change any subcontract to a cost-plus-a-fixed-fee basis, a price-adjustment basis, or such other basis as may be approved "

Ey letter of cormany 19, 1941, form of Contract Mod-1732 for the construction of four Destroyers Nos. DD64; to 648, inclusive, was forwarded to the Contractor for execution. If this contract has not been forwarded to the Navy P13-2(2)/L1-3(10091c) P

legartm hi, it is requested that the above changes, except for that applying to Article 23(1) of the General Provisions, which has already been made, be inserted in all copies of form of Contract NOd-1732 and the General Provisions forming part thereof, and that appropriate entries covering such insertions be added under Article 14 of the Centract and Article 25 of the General Provisions.

It is requested that receipt of this letter be acknowledged.

Respectfully,

James Forrestal

Acting Secretary of the Navy

Federal Shipbuilding and Dry Lock Company, Kearny, New Jersey.

particle of the formula of the state of the rate ander this communication, a unit the Secretary 6t the Navy may, in advance of from pay in, make partial payments is ano outs shall be found by the Compensation Board to be due the contractor. As a condition precedent to final payment the contractor shall execute in each form and containing such terms and containing. does the centractor. And evaluation precedent to that payment the contractor shall execute a release, in such form and contaming such terms and conditions as shall be prescribed by the a release, in Sact and the Sacy, of all chains against the United States arising under or by virtue of this Secretary of the Navy, of all chains against the United States arising under or by virtue of this Secretary of the Sansa and Secretary of the Sansa the Chicago States arising under or by virtue of this contract or the cancellation hereof.

12. The contract of will notify the Department not less than 30 days beforehand of the date. Lemenage of the contract of the sansa and the sansa of t of handhing each vess as of that a spot of for the vessel may be selected.

13. The contractor shall notify in Department in writing at least 2 weeks in advance of Teats. 13. The contacting trials and the approximate date for starting trials shall be furnished at least 30 days in advance. at least 30 days in advance.

14. Each vessel shall be sufficiently strong to carry safely the personnel and the armament, surging armor, ammunition (including torpedoes and their appendages), equipment, fuel oils, stores, and machinery prescribed by the Department and indicated in the plans and specifications; and the vessel shall be accepted only on condition that she shall, after the trials prescribed in the plans and specifications; and the vessel shall be accepted only on condition that she shall, after the trials prescribed in the plans and specifications. and the Vesser shall be discovered and well built as defined therein and in strict conformity 15. The contractor shall notify the Department in writing at least 2 weeks in advance of the Delivery. date proposed for delivery. After one-half of the contract time has expired the contractor hall on the first day of each succeeding calculate month until the vessel is completed, inform the Department of the estimated date of completion 16. The contractor shall be informed of all defects and deficiencies developing during the guarantee period specified in this contract and for which it is held responsible, and wherever housed of defects guarantee period speciment in this contract and for which it is neld responsible, and, wherever practicable, the contractor shall be given an opportunity to inspect the defects and deficiencies for which the contractor is responsible before they are corrected; and the decision of the Secretary of the Navy or the Chief of the Bureau of Ships, as his duly authorized representative, as to the responsibility of the contractor for such defects and deficiencies shall be final and binding on the parties to this contract. The actual cost of correcting all defects and deficiencies for which the latter contracts and shall include the superior of the section of the sec contractor is held responsible shall be deducted from the payment to be made in final settlement most this contract, or by refund if the amount reserved is exceeded by the amount to be deducied: Provided, That in order to expedite such final settlement, if the work of correcting any of the reported defects and deficiencies shall not have been undertaken when final settlement is otherwise due, the cost of correcting such defects and deficiencies may be determined as a change as provided in this contract, and the amount so determined deducted in lieu of the actual cost of such items in final settlement. 17. (a) During the continuance of the national emergency declared by the President of the Eight-hour last United States on September 8, 1939, to exist, but not later than June 30, 1942, unless otherwise provided by law, the provisions of the law prohibiting more than eight (8) hours' labor in any one day of persons engaged upon work covered by this contract shall, in accordance with the Act approved June 28, 1940 (Public, No. 671, 76th Cong., 3d sess.), be suspended. The provisions of Section 303 of the "Second Supplemental National Defense Appropriation Act 1941," approved September 9, 1940 (Public, No. 781, 76th Cong., 3d sees.), are applicable to this contract. (b) If the contractor, in the interest of National Defense, employs, with the approval of overtime the Department, any person or persons upon the work covered by this contract in excess of eight (8) hours in any one day or of forty (40) hours in any one week, the Department will reimbuse the contractor as determined by the Compensation Board for the net excess of the wage rates paid by the contractor over and above the regular wage rates paid by it for such overtime work, and the resultant increased State and Federal Social Security taxes actually paid by the contractor, to the sum of all of which shall be added 8.7 percent as profit thereon. (c) If the contractor, in the interest of National Defense, employs, with the approval of the saint work Department, any person or persons on work other than day work, the Department will reimbune the contractor as determined by the Compensation Board for the net excess, if any, of the wage rates paid by the contractor over and above the regular day wage rates paid by it for the same type of work, and the resultant increased State and Federal Social Security taxes actually paid by the contractor, to the sum of all of which shall be added 8.7 percent thereof, as profit.

(d) The contractor shall maintain such records as shall be necessary, in order that it may definitely show the amount of money actually paid by it for such overtime work and/or shift (e) The contractor shall not employ any person undergoing sentence of imprisonment at Convict labor. (f) The contractor will report monthly, and will by agreement require its subcontractors to the manner, within 5 days after the close of each calendar month, on forms to be tausished by the United States Department of Labor, the number of persons on their respective tausished by the united States Department of Labor, the number of persons on their respective pay rolls, the aggregate amount of such pay rolls, the man-hours worked, and the total expenditure for materials. The contractor shall furnish to the Department of Labor the names and subsect of all subcontractors on the work at the earliest date practicable: Provided, however, That the requirements of this paragraph shall be applicable only for work at the site of the substruction project.

(c)) Pursuant to the provisions of the Act approved June 13, 1934 (40 U.S. C. 276 (b) and Amdarited rates of pay for labor, the Secretary of the Treasury and the Secretary of the labor. (c)), concerning rates of pay for labor, the Secretary of the Treasury and the Secretary of the labor. (amended March 29, 1937):

estruction project.

SECTION 1. Said Act reads as follows:

To effectuate the purpose of estimal statutes concerning rates of nay for labor, by making it unlarful to prevent anyone from receiving the compensation contracted for thereunder, and for other purposes.

"Bo it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that whoever shall induce any person employed in the construction, prosecution, or completion of any public building, public work, or building or work financed in whole or in part by loans or grants from the times it is the contract of employment, by force, intimidation, threat of precuring diamisal from such employment, or ry any other minner whateover, shall be fined not more than \$5,000, or imprisoned not more than two years, or both. "Sec. 2. To said in the enforcement of the above section, the forcetary of the Treasury and the Secretary of the Interior jointly shall make reasonable regulations for contractors and subcontractors on any such building or work, including a prevision that each contractor and subcontractor shall furnish weekly a sworn affidavit with respect to the wages paid each employee during the preceding weer."

Sec. 2. Each contractor and subcontractor engaged in the construction, prosecution, or completion of any building or work of the United States or of any building or work financed in whole or in pert by loans or grants from the United States, or in the repair thereof, shall furnish each employee during the preceding week. Said affidavit shall be in the following form:

(h) This contract is subject to the provisions of the Act of June 25, 1936 (40 U.S. C. 299), entitled "An Act to provide more adequate projection to werkmen and laborers on projects, buildings, constructions, improvements, and property wherever situated, belonging to the United States of America, by granting to the several States jurisdiction and authority to apply their State workmen's compensation laws on all property and premises belonging to the United

(i) The construction of the posed vessels shall be in accordance with the provisions of the (i) The construction of the correl vessels shall be in accordance with the precisions of the Act approved June [2], 1936 (4) U. S. C. 35-45), and the regulations issued by the Secretary of Labor in pursuance acreof, to the extent that said providents and regulations and the representations as tipulations begin as for him as applicable to this contract, unless such course, in the president of the President of the United States, shall not be in the interest of the National Defense (Act approved May 17, 1938) (44 U. S. C. 498), and unless the President of the United States shall, in accordance with the Act approved June 28, 1946 (Public No. 671, 7th Courz), and unless the President of the United States shall, in accordance with the Act approved June 28, 1946 (Public No. 671, 7th Courz), and unless the President of the United States shall, in accordance with the Act approved June 28, 1946 (Public No. 671, 7th Courz), and unless the President Act.

States shall, in accordance with the Act approve counce 28, 1940 (runn); Act 641, 1940 (1952), suspend any or all of the representations and stipulations of Section 1 of the aforesaid Act.

(i) It is agreed and understood that this contract will be performed subject to the representations and stipulations of the Act approved June 30, 1936 (41 U.S. C. 35-45) and regulations. tions issued by the Sorretary of Labor pursuant thereto as follows

(1) The contractor is the manufacturer of or a regular dealer in the materials, supplies, articles, or equipment to be manufactured or used in the performance of this contract

(2) All persons comployed by the contractor in the manufacture of farmishing of the mate-(2) an persons cannot be the second and the performance of this centrac will be paid, such out subsequent defliction or relate on any account, not less than the minimum wages as determined by the Secretary of Labor to be the precading minimum wages for o reads emas determined by the Secretary of Caber O be the probability ununuum ways for a risons employed of sintair work or in the particular or similar industries or groups of moust of carried expension; in the locality in which the machinals, supplies, and less or equation of moust or common and in for homelast localities contract trace in A. Associated that the superation with recommon minimum ages is apply only to processes or contracts placing to substitution with recommon contracts and in the initial or by the Secretary of Lador.

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The stipulations affecting employees shall be deemed applicable only to employees engaged in or connected with the manufacture, fubrication, assembling handling, supervison, or shippent of materials, supplies, articles, or equipment required under this contract and shall not be The contractor, subject to the representations and stipulations embodied herein, shall maintain the following records of employment which shall be available for the inspection and ranscription of authorized representatives of the Secretary of Labor: (a) Name, address, sex, and occupation of each employee covered by the contract stipu-(b) Date of buth of each such employee under 21 years of age, (c) Wage and hour records for each such employee including the rate of wages and the amount paid each pay period, the hours worked each day and each week, and the period during mount paid each pay period, the hours notated cath day and each week, and the period during which each such employee was engaged on a Government contract with the number of such entract. Compliance with this subsection shall be deemed complete if wage and bour records for all employees in the plant are maintained during the period between the award of any Gorenment contract and the date of delivery of the materials, supplies, articles, or equipment: Provided, That where no separate records for employees engaged on Government contracts are maintained, it shall be presumed until affirmative proof is present to the contracts are applyees in the plant, from the date of award of any such contract until the date of delivery of the materials, supplies, articles, or equipment, were engaged on such Government contract. 18. In the performance of the work covered by this contract the contractor, subcontractors, prefered material men, or suppliers shall use only such unmanufactured articles, materials, and supplies, T manage as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from The toles and see saides, materials, or supplies mined, presideed, or manufactured, as the case may be, in the en in Prince Emted States: the foregoing provision shall not apply to such articles, materials, or supplies PHE MODILE due dass or kind to be used or such articles, materials, of supplies from which they are manuat le te tand attact mass or kind to be used or soon accesses, incomess, or suppress from which day are manufactured, as are not mixed, produced, or manufactured, as the case may be, in the United States in sufficient and trusonably available commercial quantities and of its stidentery quality, or south articles, materials, or supplies as may be excepted by the head of the Denerment under the provise of Title III, section 3, of the net of Congress approved March 3, 1939-41 U.S. C. contract which to be 19. This contract shall not, nor shall any interest therein, be transferred by the contractor. Not transferance to my other person or persons. 20. The contractor warrants that he has not employed any person to solicit or secure this comment against upon any agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the Department the right to terminate this contract, or, in is discretion, to deduct from the contract price or consideration the amount of such commission, premiage, brokerage, or contingent fees. This warranty shall not apply to commissions payshe by contractors upon contracts or sales secured or made through bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business.

21. No Member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this provian shall not be construed to extend to this contract if made with a corporation for its general 22. Except as otherwise specifically provided in this contract, if any doubts or disputes Duputes. are concerning any question under this contract or as to anything in the plans or specifications, er if any discrepancy appears between said plans or specifications and this contract, the matter sail be referred at once to the Secretary of the Navy for determination; and his decision in the period (made after a hearing, if desired by the contractor) shall be conclusive and binding the parties hereto. No claim arising under this contract will be considered unless subited in writing to the Secretary of the Navy within six (6) months from the date of the expirawe of the guarantee period of the vessel with respect to which the claim arose. 23. (a) As payments are made under this contract and for changes or extras, the parts of Para (a) As payments are made under this contract and for changes or cause, and restricted which such payments shall have been made shall be residivessels and materials on account of which such payments shall be considered. ediately become the sole property of the United States; but this provision shall not be conmed as relieving the contractor from the responsibility for the care and protection of materials work upon which payments have been made or the restoration of any damaged work, or as a were of the right of the Department to require fulfilment of all the terms of this contract. between are made on account of materials on hand, but not incorporated in the vessel/

vessels as a part thereof, a lien in favor of the United States shall attach immediately to said materials and shall be discharged on the completion and delivery of the vessel/vessels as to any materials not then incorporated as a part thereof. Said lies is, pursuant to the provisions of the Act approved August 22, 1911, paramount.

(b) No payments shall be made except on vouchers in septuplicate, certified by the Super-

visor of Shipbuilding, in such form as shall be directed by the Secretary of the Navy.

(c) All warrants for payments under the contract shall be made payable to the contractor or its order.

No lien

Final payments.

Additional security.

Changes.

(d) When payment is to be made under this contract, as a condition precedent thereto, the Secretary of the Navy, in his discretion, may require evidence satisfactory to him, to be furnished by the contractor, showing what, if any, liens or rights in rem of any kind against the vessel/vessels, or the machinery, fittings, or equipment, or the materials on hand for use in the construction thereof, have been or can be acquired for or on account of any work done, or any machinery fittings, equipment, or material already incorporated as a part of the vessel/vessels, or on hand for use in the construction thereof; but the contractor, for itself and on its own account and for and on account of all persons, firms, associations, and corporations furnishing labor and material for the vessel/vessels and this contract is upon the express condition that no liens or rights in rem of any kind shall lie or attach upon or against the vessel/vessels or the machinery, fittings. or equipment, or the materials therefor, or any part thereof, or of any of them, for or on account of any work done upon or about the vessel/vessels, machinery, fittings, equipment, or materials, or of any materials furnished therefor or in connection therewith, nor for or on account of any other cause, or thing, or of any claims or demands of any kind, except the claims of the Department: Provided, however, That, in case by reason of the laws of any State the contractor shall be unable to comply with such express condition, then the Secretary of the Navy may waive such

(e) When all the conditions, covenants, and provisions of this contract shall have been performed and fulfilled by and on the part of the contractor, it shall be entitled within 10 days after the filing and acceptance of its request therefor to receive the special reserve, or so much thereof as it may be entitled to, on the execution of a release, in such form and containing such terms and conditions as shall be prescribed by the Secretary of the Navy, of claims against the United States arising under or by virtue of this contract: Provided, however, That the Secretary of the Navy may, in his discretion, make partial payments on account of the special reserve and of any other balances due in advance of final settlement.

24. Should any surety upon the bond for the performance of this contract or upon the bond for payment of persons supplying labor or material hereunder become unacceptable to the Department, or if any such surety shall fail to furnish reports as to his financial condition from time to time as requested by the Department, the contractor shall furnish promptly such additional security as may be required from time to time to protect the interests of the Department and of

persons supplying labor or materials in the prosecution of the work contemplated by this contract. 25. The following changes were made in these General Provisions before this contract was

signed by the parties thereto:

Page 8	
	rticle 23 (d), 9th line - The word "arrees" was
	inserted efter the words "vessel/vessels"
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Accepted as formed a part of Navy Department Continue Mad

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